
MEMORANDUM

To: All Counsel
From: Judge Edwin M. Kosik *EMK*
Date: 4/30/2010
Re: Global Tower, LLC v. Borough of Old Forge, No. 3:09-CV-1288

I have Plaintiffs' Motion for Leave to file an untimely motion for summary judgment, along with the proposed motion as well as the statement of material facts and brief. The defense appears to concur providing it has a reciprocal right to file a motion, "should it choose to do so."

Of course, no motion can be granted unless there is no issue as to a material fact. The opposing party can file a cross motion, which makes the same assertions. See Rule 56. If the court finds the existence of a disputed material fact, it will necessitate a trial.

Even though the time for motions has passed, I can agree to proceed on motion and cross-motion. However, don't straddle me with overlooking your untimeliness, yet being confronted with an issue of material fact.

You must confer as counsel and give me some answers. If need be, I can conference this problem with both sides. Please advise.

EMK

FILED
SCB
APR 30 2010
PER *[Signature]*
DEPUTY CLERK